

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1329 of 1981

For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

1 to 5: No

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VIDYADHAR RAMAVADH TIVARI

Versus

THE COMMANDANT S.R.P. GROUP NO.V GODHARA.

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Appearance:

MR AKSHAY H MEHTA for Petitioner

MR VB GHARANIYA,AGP for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE R.A.MEHTA

Date of decision: 18/03/98

ORAL JUDGEMENT

1. The petitioner was a Police Sub Inspector in SRP Group No. V at Godhra. The allegation is that on 9th December 1972, the petitioner had consumed illicit liquor and in a drunken state, he had belaboured a constable. On receipt of a written complaint of the constable, the Assistant Commandant visited the residence of the petitioner, but the petitioner did not open the door of his residence and did not give any response for about one

hour and after an hour, when he opened the door, he did not readily agree to accompany the Assistant Commandant for medical examination.

2. On these charges, inquiry was held and he was dismissed from service by order dated 9th July 1975. His appeal came to be dismissed on 1st June 1979. At the time of incident in 1972, his age was 55 years. Therefore, at the time of dismissal order, he had reached near the age of superannuation.

3. The criminal trial did not take place, but in the departmental inquiry, this charge is established. Though the findings of the two authorities cannot be gone into, the fact remains that the punishment is excessive.

4. At the fag end of service, if the petitioner is dismissed from service, he would lose all the benefits of his long past service. The authority does not seem to have applied its mind to this aspect.

5. Having regard to the nature of misconduct, the punishment of dismissal is required to be substituted by punishment of compulsory retirement.

6. In the result, the petition partly succeeds and rule is made absolute by substituting the punishment of dismissal by punishment of compulsory retirement. The petitioner to be given the benefits admissible to him accordingly. No costs.

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mhs/-